



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

cat

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/136,820	08/19/98	SIMON	I 98-370

BACHMAN & LAPOINTE
SUITE 1201
900 CHAPEL STREET
NEW HAVEN CT 06510-2802

MM12/1105

EXAMINER

PONOMARENKO, N

ART UNIT

PAPER NUMBER

2834

7

DATE MAILED 5/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/136,820

Applicant(s)

Simon

Examiner

Nicholas Ponomarenko

Group Art Unit

2834

☒ Responsive to communication(s) filed on Aug 19, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2834

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 1-19** are rejected under 35 U.S.C. § 101 because the disclosed invention is inoperative and therefore lacks utility.

The disclosed invention contradicts the principle of the conservation of energy. The disclosed device supposedly will output useful energy or perform useful work without any external input of energy, which is in conflict with the principle of the conservation of energy.

Doctrine or principle of the conservation of energy.

If the boundary considered includes the universe, the principle of the conservation of energy amounts to a statement that the sum total of the energy of the universe is a fixed unalterable quantity.

The principle of the conservation of energy also denies the possibility of "perpetual motion." By "perpetual motion" is meant the devising of some arrangement so that energy in one form can

Art Unit: 2834

be produced without energy in some other form being used up by the machine. Thus if an engine could be made to do work on external bodies for an indefinite time, and thus give out energy, without being supplied with energy from without, or diminishing the stock of energy in all its various forms which it originally possessed, we should have a means of creating energy, and this is in direct contradiction to the principle of the conservation of energy.

When a patent applicant presents an application describing an invention that contradicts known scientific principles, or relies on previously undiscovered scientific phenomenon, the burden is on the examiner simply to point out this fact to the appellant... The burden shifts to appellant to demonstrate either that his invention, as claimed, is operable or does not violate basic scientific principles, or that those basic scientific principles are incorrect. *As stated by the Patent Office Board of Appeals, Newman v. Quigg 681 F.Supp 16, at 18, 5 U.S.P.Q. 2d 1880(1988).*

Applicant is required to furnish a working model of his invention in order to demonstrate its operability. See MPEP § 608.03.

Conclusion

3. When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support.

No new matter may be introduced.

Art Unit: 2834

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Nicholas Ponomarenko** whose telephone number is **(703) 308-1776**.

5. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, Mon-Fri, 8 am-530 pm
Phone: (703) 308-0956
Fax: (703) 305-3431



Nicholas Ponomarenko
Primary Examiner
Art Unit 2834

np
November 4, 1999